

AO 91 (Rev. 08/09) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Western District of Texas

2012 NOV 28 AM 10:36

United States of America)

v.)

RAFAEL GARIBAY,
EDUARDO MUNIZ)

Case No. 5:12-MJ-1174)

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of November 27, 2012 in the county of Bexar in the
Western District of Texas, the defendant(s) violated:

Code Section

21 USC 846, 841(a)(1), & 841(b)(1)
(B)

Offense Description

Conspiracy to Possess and Possession with Intent to Distribute 100 grams or
more of a Detectable amount of Heroin.

This criminal complaint is based on these facts:

☒ Continued on the attached sheet.

Complainant's signature

DET. MATTHEW PARKINSON, SAPD

Printed name and title

Sworn to before me and signed in my presence.

Date: 11/28/2012

Judge's signature

City and state: San Antonio, Texas

HENRY J. BEMPORAD, U.S. Magistrate Judge

Printed name and title

Minimum mandatory 5 years up to 40 years imprisonment

Maximum fine of up to \$5,000,000

At least 4 years of supervised release

\$100 Assessment to the Victims of Crime

ATTACHMENT "A"

AFFIDAVIT IN SUPPORT OF COMPLAINT AND ARREST WARRANT

MATTHEW PARKINSON, BEING DULY SWORN, DEPOSES AND SAYS:

I am a Detective with the San Antonio Police Department (SAPD) assigned to the Gang Unit. In addition to the basic law enforcement training I have also received advanced training regarding the controlled substance laws of the United States

I received information from a credible and reliable source, who in the past, has provided information that has proven true and correct. The information received was that Rafael was dealing commercial quantities of heroin from 151 Sonora, San Antonio, Texas.

Computer research was conducted in an attempt to identify "Rafael". A photo of Rafael GARIBAY with a date of birth of 7-23-1980 was obtained and shown to the cooperating individual. The cooperating individual positively identified Rafael GARIBAY as the individual involved in the distribution of commercial quantities of Heroin from 151 Sonora.

On several occasions surveillance was established in an attempt to verify information provided by the cooperating individual. On different occasions surveillance observed a high volume of vehicular traffic at the listed residence. The vehicles would arrive, and individuals would then exit their vehicles and enter 151 Sonora for short periods of time. On other occasions, vehicles would arrive, and the individual identified as Rafael GARIBAY, would exit out of the front door of 151 Sonora and walk to the vehicles parked in front of the location and contact the occupants of these vehicles for short periods of time. These types of activities being performed at this location are consistent with the manner in which narcotics are distributed.

Based upon the above information, a state narcotics search warrant was obtained for the location on November 25 2012. On November 27, 2012, surveillance was again established on the location by plain clothes Gang Unit Detectives and a high volume of vehicular traffic was again seen coming and going from 151 Sonora. A search warrant team, consisting of several uniformed Gang Unit officers, was briefed and we were on the way to the location when we received information that a subject fitting the description of Rafael GARIBAY was leaving the location in a black 2002 Ford Expedition. Uniformed patrol units were given the description of the vehicle and the direction of travel by moving surveillance. A traffic stop of the vehicle was conducted for traffic violations (Expired Inspection 3/11 and Failure to signal - right turn). Upon contacting the driver of the vehicle, identified as Edward MUNIZ, the driver stated he did not have a valid operator license, at which time he was placed under arrest. A clear plastic baggie containing 128 grams of alleged black tar heroin along with 7.7 grams of street ready heroin was then discovered in the floorboard of the driver's feet.

In the meantime, the search warrant was executed at 151 Sonora by uniformed Gang Unit officers. As entry into the front of the location was established, officers relayed information that a subject was seen fleeing on foot from the location jumping fences. A foot pursuit ensued and Rafael GARIBAY was then apprehended as he fell from a neighbor's rooftop, cutting his hand which required medical attention. Rafael GARIBAY was then walked back to 151 Sonora, where he was read the warrant along with his Miranda Constitutional Rights. Rafael GARIBAY attempted to interject several times while the Affiant was reading his rights, stating "sir lemme talk

to alone." The affiant completed the reading and Rafael GARIBAY stated that he understood his rights. Rafael GARIBAY then directed the Affiant to the kitchen where 5 grams of heroin were located along with a RG, model RG31, .38 caliber revolver pistol. I advised evidence custodian Det. Paul Rodriguez 2419 of the findings. Rafael GARIBAY then told the Affiant to follow him to the rear of the location, outside in the shed. Rafael GARIBAY then pointed out two handguns (a Rock Island Armory, .45 caliber semi-automatic pistol bearing ser #R1A921385, loaded with eight (8) .45 caliber rounds and a P-Beretta model 1934 .380 caliber bearing ser #645611 loaded with six (6) rounds). Rafael GARIBAY then stated that was all that he had.

A further search of the location was conducted by plain clothes Gang Unit detectives and drug K-9 turned up approximately 279.5 grams of black tar heroin in the kitchen along with a bottle of super lactose. Also discovered were two five pound bags of lactose, two GTC blenders with heroin residue inside of them, 2 digital scales, proof of residence belonging to Rafael GARIBAY, and \$110 in US currency.

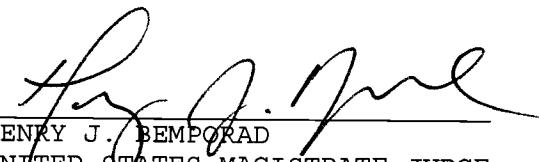
Both Rafael GARIBAY and Edward MUNIZ were transported back to the Gang Unit office where an audio and video tape interview was conducted. During the interview of Rafael GARIBAY, he stated that he is involved with the selling of commercial quantities of heroin at 151 Sonora. GARIBAY also stated that he receives anywhere from 10 to 20 ounces of tar heroin a week which he distributes. GARIBAY also confirmed his membership in the Mexican Mafia. GARIBAY also confirmed that he possessed the firearms for protection of his narcotics do to past burglaries at 151 Sonora in which he stated that the burglars were looking for drugs. GARIBAY also stated that all contraband at 151 Sonora was his.

Edward MUNIZ was read his Miranda Constitutional rights and admitted to investigators that he had previously picked up 5 ounces of black Tar heroin which is what MUNIZ had in his possession. MUNIZ stated that the contraband was fronted to him by an individual MUNIZ would not identify. MUNIZ confirmed that he was a member of the Mexican Mafia.

Affiant further sayeth not.


MATTHEW PARKINSON, Det. SAPD

Subscribed and sworn to on this the 28th day of November, 2012.


HENRY J. BEMPORAD
UNITED STATES MAGISTRATE JUDGE